

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

STANLEY E. MARTIN,

Petitioner,

v.

BYRAN BARTOW, Director,
Wisconsin Resource Center,

Respondent.

ORDER

08-cv-518-bbc

On August 4, 2009, I entered an order granting petitioner Stanley Martin's request for leave to proceed in forma pauperis on appeal on the condition that petitioner prove that he is indigent by filing an affidavit of indigency and six-month trust fund account statement on or before August 17, 2009. Petitioner has now filed those documents.

This court uses the following formula to determine whether a prisoner is indigent for purposes of appeal or whether he must prepay all or a portion of the appellate filing fee. First, the court determines petitioner's average monthly deposits and his average monthly balances for the six-month period mentioned above. If 20% of the greater of these two figures is \$455 or more, the petitioner is not eligible for indigent status and will have to prepay all of the \$455 filing fee. If 20% of the greater of these two figures is less than \$455,

he will be required to prepay whatever portion less than \$455 has been calculated. Applying this formula to petitioner, I find that he is able to pay at least a portion of the appellate filing fee. According to the trust account statement, in the past six months petitioner's monthly balance has averaged \$12.64 and his average monthly deposits are \$33.00. Twenty percent of the greater of these two figures is \$6.60. Accordingly, I will grant petitioner's application for leave to proceed in forma pauperis on the condition that he prepay \$6.60.

ORDER

IT IS ORDERED that petitioner Stanley Martin's request for leave to proceed in forma pauperis on appeal is GRANTED on the condition that he prepay the amount of \$6.60. Petitioner may have until September 8, 2009 in which to pay this amount. If by that date, petitioner fails to pay the initial partial payment or explain his failure to do so, then I will advise the court of appeals of his noncompliance in paying the assessment so that it may take whatever steps it deems appropriate with respect to this appeal.

Entered this 18th day of August, 2009.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge